

GOA HUMAN RIGHTS COMMISSION
PANAJI – GOA

ANNUAL REPORT
2024 – 2025

Introduction

This is the Fourteenth Annual Report of the Goa Human Rights Commission for the year 2024-2025 (1st April 2024 - 31st March 2025), presented to the State Government, in terms of Section 28 (1) of the Protection of Human Rights Act, 1993.

2. The Protection of Human Rights Act, 1993 provides for the constitution of National Human Rights Commission, State Human Rights Commissions in States and Human Rights Courts for better protection of human rights and the matters connected therewith or incidental thereto.

3. As per Section 2 (1) (d), “human rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by the courts in India. The Constitution of India has also guaranteed a right to life to all persons under Article 21. This right has been given a new dimension by the Court in the last three decades by interpreting the right to life in a liberal way. It has been held in catena of cases that the right to life includes the right to live with dignity and decency and also in a clean and healthy environment. Thus, any infringement of fundamental right also amounts to violation of human rights.

4. This Commission has made several recommendations from time to time in respect of the violation of basic human rights such as delay in payment of pension to the Government servants, delay in payment of salaries to the government servants, police atrocities against public members, illegal detentions of the persons by the Police allegedly involved in commission of crimes, blocking of right of access of the persons to reach their respective properties, etc. These recommendations were widely reported by the press which made public members aware about their fundamental rights and also about the basic human rights which are available to them under the law. In absence of the State Human Rights Commission in the State of Goa, the persons whose human rights were allegedly violated by the public functionaries were constrained to approach before the normal court of law which involves long and cumbersome procedure apart from being a costly affair. The establishment of Goa Human Rights Commission has fulfilled the aspirations

of the people of Goa who, now, have an easy access to justice to ventilate their grievances against public servants in the matter of violation of human rights.

5. The Government of Goa has allotted adequate office premises to the Commission consisting of 609.39 sq.mts in the Old Education Department Building at Panaji and has also provided adequate infrastructure for smooth functioning of the Commission.

6. **Constitution of Commission**

The Goa Human Rights Commission was constituted in the month of March, 2011 to exercise the powers conferred upon and to perform the functions assigned to the State Commission under Chapter IV of The Protection of Human Rights Act, 1993. Section 21 (2) of the said Act as substituted by Protection of Human Rights (Amendment) Act, 2019, lays down that the State Human Rights Commission shall consist of

- (a) A Chairperson who has been a Chief Justice or a Judge of a High Court.
- (b) One Member who is, or has been, a Judge of a High Court or District Judge in the State with a minimum of seven years' experience as District Judge.
- (c) One Member to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

The Constitution of the Commission during the period of this Annual Report was as under:

The Commission was functioning from 01/04/2024 to 31/03/2025, with Shri Desmond D'Costa, Retired Principal District and Sessions Judge of the State of Goa as Member-1 and he has been authorized to act as Chairperson and Shri Pramod V. Kamat, former District and Additional Sessions Judge and former Law Secretary of the State of Goa, as Member-2.

7. **Functions of State Commission**

Section-12 read with Section 29 of The Protection of Human Rights Act, 1993 provides for the functions of the State Human Rights Commission which inter alia includes the following functions:-

- (a) *To inquire, suo motu or on a petition presented to it by the victim or any person on its behalf or on a direction or order of any Court, into the complaint of:*

- (i) *Violation of human rights or abetment thereof; or*
- (ii) *Negligence in the prevention of such violation, by a public servant;*
- (b) *To intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;*
- (c) *To visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of living conditions of inmates thereof and make recommendations thereon to the Government;*
- (d) *To review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;*
- (e) *To review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;*
- (f) *To undertake and promote research in the field of human rights.*
- (g) *To spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, media, seminars and other available means;*
- (h) *To encourage the efforts of non-governmental organisations and institutions working in the field of human rights;*
- (i) *To such other functions as it may consider necessary for the promotion of human rights.*

8. Procedure adopted by the State Commission

The Goa Human Rights Commission has notified its own Regulation namely, the Goa Human Rights Commission (Procedure) Regulations, 2011, which is published under Section 10 and Section 29 of The Protection of Human Rights Act, 1993. One of the most important functions of the State Commission is to inquire suo motu or on a petition presented to it by the victim into the complaint of violation of human rights by a public servant. The State Commission has devised a simple procedure for receiving and dealing with complaints. A complaint can be filed either in person or through post or via e-mail. The State Commission does not charge any fee from the people for filing complaints.

Under Section 18 of the Protection of Human Rights Act 1993, provides the steps that the Commission can take under the Act, when the inquiry discloses the Commission of violation of human rights or negligence in the prevention of violation of human rights or abetment thereof by a public servant and the powers of the Commission to recommend to the concerned Government authority, the steps as provided in Section 18 (a) (i) or 18 (a) (ii) or to take further action as deemed fit, in terms of Section 18(a)(iii).

Under Section 18(e) of the Act, the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission.

Under Clause 17 of the Goa Human Rights Commission (Procedure) Regulation 2011, a copy of the inquiry report along with the copy of recommendation shall be sent to the authority calling upon them to furnish their comments on the report including action taken or proposed to be taken within one month from the date of receipt of the Order or recommendation made by the Commission.

9. Powers of the Commission

The State Commission, while inquiring into the complaints under the Act, have powers of a civil court trying a suit under the Code of Civil Procedure, 1908, and in particular in respect of the following matters, namely:

- (a) Summoning and enforcing the attendance of witnesses and examining them on oath;*
- (b) Discovery and production of any document;*
- (c) Receiving evidence on affidavits;*
- (d) Requisitioning any public record or copy thereof from any court or office;*
- (e) Issuing commissions for the examinations of witnesses or documents;*
- (f) Any other matter which may be prescribed.*

10. Complaints not ordinarily entertainable.

As per Regulation 9 of the Goa Human Rights Commission (Procedure), Regulations, 2011, the Commission may not entertain complaints:-

- (a) which are vague or anonymous or pseudonymous or trivial in or frivolous in nature;*
- (b) which are pending before any other Commission;*

- (c) which raise dispute of civil nature, such as property rights or contractual obligations;*
- (d) which relate to service matters or industrial disputes;*
- (e) which are not against any public servant;*
- (f) which do not make out any specific violation of human rights;*
- (g) which are covered by a judicial verdict or decision of the Commission;*
- (h) which are outside the purview of the Commission.*

11. Grants by State Government

As per Section 33 of The Protection of Human Rights Act, 1993, the State Government shall pay to the State Commission by way of grants such sums of money and the State Commission may spend such sums as it thinks fit for performing the functions under Chapter V. During this period, the Government provided Grant-in-Aid of Rs. 623.44 Lakhs. The Commission spent an amount of Rs. 292.23 Lakhs, during the period from 01/04/2024 to 31/03/2025.

The Commission is also required to prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with Comptroller and Auditor General of India.

The audited Annual Statement of Accounts for the financial year 2024-2025, will be submitted by the end of June 2025 to the Home Department, Government of Goa, Secretariat, Porvorim-Goa, as per the provisions in The Protection of Human Rights Act, 1993.

12. On 1/04/2024, 361 cases were pending. During the period from 01/04/2024 to 31/03/2025, 125 new complaints were registered and total 405 cases were disposed of. As on 31/03/2025, the total number of cases pending are 81.

13. Amongst the cases disposed of between 01/04/2024 to 31/03/2025, recommendations were made in eighteen cases. The cases in which recommendations were made are as under:-

1) Proceeding No.226/2022

This proceeding was disposed of by Inquiry Report dated 03/04/2024.

The complaint dated 13/12/2022, was received in the Commission as the Respondent had not paid her the arrears of pension.

The complaint had been filed by the Complainant, Smt. Carmela Lobo, who is a senior citizen, aged 79 years, as in 2022. She had stated that despite the Government of Goa Order dated 30/11/2016, for disbursing the arrears of

pension before July 2017, as applicable under the 7th Pay Commission, she had not received her pension arrears for the period from January 2016 to August 2017. She had prayed for being paid her pension arrears along with interest.

The Respondent, Mormugao Municipal Council, had filed their reply that due to some technical reason, the pension arrears of some pensioners is pending and the issue will be sorted out on priority basis, the moment the funds are available.

The Respondent had admitted that the total amount of 7th Pay Commission pension arrears payable to the Complainant amounted to Rs.73,575/-.

The Commission found that non-payment of the arrears of the pension of the Complainant, who is a Senior Citizen for the period from January 2016 to August 2017, on the specious plea of non-availability of funds, amounts to a serious violation of her human rights.

The Commission accordingly recommended that the Respondent shall forthwith pay the arrears of pension of Rs.73,575/- (Rupees Seventy Three Thousand Five Hundred Seventy Five only) of the Complainant for the period from January 2016 to August 2017, within 60 days along with simple interest thereon at 6% per annum from 01/09/2017 till final payment.

Copy of the Inquiry Report was sent to the Respondent, calling for their comments, including the action taken or proposed to be taken within a period of 60 days or on or before 04/06/2024, in terms of Section 18(e) of the Protection of Human Rights Act, 1993.

Thereafter, on 28/06/2024, the Order was received of Mormugao Municipal Council, sanctioning the payment of Rupees 1,01,386/- (One Lakh One Thousand Three Hundred and Eighty Six) to Smt. Carmela Lobo towards the arrears of the pension.

2) Proceeding No.58/2024

This proceeding was disposed of by Inquiry Report dated 19/06/2024.

The complaint dated 04/03/2024, had been received in this Commission, signed by 56 undertrial prisoners of the Central Jail Colvale, in respect of the ill treatment towards prisoners.

The Complainants raised grievances in respect of not receiving canteen facilities, water problems, health issues, not being allowed use of the sports ground, assaults and harassment by the officials of the Central Jail.

In their reply, the Respondent, the Inspector General of Prisons, Panaji-Goa, had denied that the office staff has been ill treating the undertrial prisoners. They had also stated that the grievances raised by the Complainants had been addressed. The Respondent stated that the facility of canteen had been provided to the inmates as per Chapter XVII (Welfare of Prisoners), Rule 1136 of Goa Prison Rules, 2021. So also, water purifiers have been installed in the blocks to facilitate the inmates to get pure drinking water and anti mosquito repellents spray is used in the cells. Similarly, sports events are conducted and inmates are given access to participate in the events. The Respondent denied that any inmates have been assaulted.

The Complainants had stated that they are being threatened and assaulted and the CCTV footage would be relevant.

The Respondent had stated that the CCTV cameras installed in the Central Jail Colvale have backup storage of 12 to 13 days and thereafter automatically gets deleted from the system.

The Commission accordingly recommended as under:-

i. The Respondent takes steps to ensure that the CCTV cameras installed in the Central Jail Colvale have back-up storage for a period of 60 days.

ii. The Commission also recommends that the Respondent take up with the Public Works Department and other departments, the regular maintenance of the facilities in the jail, so as to avoid inconvenience to the undertrials/convicts who are housed in the jail.

A copy of the Inquiry Report was to be put up by the Respondent on the Notice Boards of the Central Jail Colvale.

Copy of the Inquiry Report was sent to the Respondent, calling for their comments, including the action taken or proposed to be taken within a period of 60 days or on or before 20/08/2024, in terms of Section 18(e) of the Protection of Human Rights Act, 1993.

Subsequently, on 19/08/2024, the Action Taken Report was received from the Inspector General of Prisons, Panaji, that the recommendations were being acted upon.

3) Proceeding No.47/2024

This proceeding was disposed of by Inquiry Report dated 19/06/2024.

The complaint dated 08/02/2024, was received in the Commission from 26 Lady Home Guards, with a request to withdraw Lady Home Guards from the Central Jail Colvale, as they are subjected to abuses and threats from the prisoners.

It is seen that the Complainants who are Home Guards have requested to withdraw the Lady Home Guards from duty at the Central Jail Colvale.

From the reply of the Respondent and documents, it was stated by them that four Lady Home Guards are deployed in the Female Block on monthly basis to man the Entrance Gate of the Female Block only and their duty is to open and close the Entrance Gate of the Female Block only and no other work is assigned to them. They stated that the services of Lady Home Guards shall continue till the vacancies of Lady Warders and Lady Matrons are filled in the Department.

The Commission recommended that the Respondent expedite the filling of the vacancies of Lady Warders and Lady Matrons in the Department, within 60 days. The Commission also recommended that the duties to be performed by the Lady Home Guards be specified by a written Order, from time to time, within 60 days.

Copy of the Inquiry Report was sent to the Respondent, calling for their comments, including the action taken or proposed to be taken within a period of 60 days or on or before 20/08/2024, in terms of Section 18(e) of the Protection of Human Rights Act, 1993.

4) Proceeding No.32/2022

The Commission perused the complaint dated 24/01/2022, received from Shri Tulsidas N. Harmalkar, Peon, Village Panchayat of Betalbatim, Salcete-Goa, r/o H. No.59, Nagvaddo, Betalbatim, Salcete-Goa.

After receiving the reply from the respondent and hearing the parties the Inquiry Report was passed on 24/04/2024.

The Commission recommended that the amount of Rs.2,41,221/- (Rupees two lakhs forty one thousand two hundred twenty one only) be paid to the Complainant by the Respondent No. 1, within 60 days along with simple interest at 6% per annum, from 01/04/2011 till date of final payment, along with compensation to the Complainant of Rs.5000/- (Rupees five thousand only) for the hardship caused to him.

Copy of the Inquiry Report was sent to the Respondent No.1, calling for their comments, including the action taken or proposed to be taken within a

period of 60 days or on or before 25/06/2024, in terms of Section 18(e) of the Protection of Human Rights Act, 1993.

The Action Taken Report was received from the Respondent that the office had complied with the directions of the Commission and had paid the First and Second MACPS amounting to Rupees 2,41,221/- (Two Lakhs Forty One Thousand Two Hundred and Twenty One only) to the Complainant along with simple interest at 6% per annum, from 01/04/2011 till the date of final payment, along with the compensation of Rs.5000/- (Rupees Five Thousand only).

5) Proceeding No.18/2024

This proceeding was disposed of by Inquiry Report dated 25/06/2024.

The complaint dated 15/01/2024, was received from the Complainant, Mr. Jagannath U. Kundaikar, in respect of the recovery from his gratuity without any prior notice.

On perusing the complaint, the Commission by Order dated 25/01/2024, issued notice to the Respondent No. 1, i.e. the Director of Accounts, Porvorim-Goa.

On the appearance of the Respondent No.1 and hearing arguments partly, the Respondent No.2, i.e. the Principal, Deepvihar Higher Secondary School, Headland Sada, Vasco-Da-Gama, Goa and the Deputy Director, South Educational Zone, Margao-Goa, were added as Respondents No. 2 and 3.

Thereafter, the Respondents No. 2 and 3 filed their replies. Counter reply was also filed by the Complainant.

The Commission had gone through the present complaint, the replies of the Respondents No. 2 and 3, the Rejoinders of the Complainant and has considered the submissions on behalf of the Parties. There was no dispute that the Complainant was working as a Teacher Grade-I from 01/07/1996 and retired on superannuation on completing the age of 60 years on 31/08/2022, after 26 years of service. After his retirement, he received the payments of his pensionary benefits by commutation letter dated 12/09/2023.

At this stage, the Complainant found that his authorities had deducted from his gratuity an amount of Rs.53,320/-, without any prior notice to him. Accordingly, he approached this Commission.

The Respondent No.2 in their reply stated that the amount was adjusted from the retirement gratuity, as it was found there was an error during his Sixth Pay fixation, resulting in excess payment of salary of Rs.53,320/-. They

relied on the Central Civil Service (Pension) Rules, 2021, under which Rule 67(2) provides that the Government dues shall be adjusted against the amount of retirement gratuity.

So also, the Respondent No.3 had stated that the overpayment made to the Complainant was recovered from his retirement gratuity which is the standard procedure.

Guided by the Judgment of the High Court of Bombay at Goa, in the case of ***Jotiba Ishwar Mali vs the State of Goa and others, Writ Petition No.285 of 2024***, decided by the oral judgment dated 03/04/2024, in the facts of the present case, the Commission found that the Respondents No. 2 and 3 could not have recovered the said overpayment of Rs.53,320/- from the gratuity amount of the Complainant after his retirement and without notice to him and it is not the case of the Respondents that the excess payment was due to any misrepresentation by the Complainant. The Central Civil Service (Pension) Rules, 2021, cannot over-ride the law laid down by the Supreme Court.

Accordingly, the Commission recommended that the Respondents No. 2 and 3 shall refund the recovered amount of Rs.53,320/- (Rupees Fifty Three Thousand Three Hundred Twenty only) to the Complainant as expeditiously as possible and, in any case, not later than 60 days . If this amount is not paid to the Complainant within 60 days, it will carry interest at the rate of 8% per annum beginning from the date of this order until the date of payment.

Inquiry Report was forwarded to Respondents No.2 and No.3 for taking Action thereon, and reminder had also been issued and Action Taken Report is still pending.

6) Proceeding No.32/2024

This proceeding was disposed of by Inquiry Report dated 29/04/2024.

The complaint dated 29/01/2024, was received from the Complainant Mrs. Sulbha A. Sawant Dessai, who is a retired Government Primary Teacher.

The Commission has gone through the complaint, the reply, the Rejoinder, the Sur-Rejoinder, documents of the Parties and has considered the submission of both Parties, as well as the law on the subject.

In the present case, the Complainant was working as a Government Primary Teacher from 06/09/1983 with the Respondent no 1, i.e. the Director of Education, Porvorim-Goa and had retired from Government service on 30/11/2022. She started receiving her pension after a year on 04/01/2024.

The question was whether the deduction of the amount of Rs.6,12,667/- from the gratuity of the Complainant after retirement was in accordance with law.

The law is very clear that after the retirement of a Government servant, no deduction can be made from the amount due to her. As held in the Judgment of the Supreme Court in ***State of Punjab and Others v. Rafiq Masih (White Washer) and Others, (2015) 4 SCC 334***, recoveries would be impermissible in law from the retired employees when the excess payment has been made for a period in excess of five years, before the order of recovery is issued. So also, the recovery is impermissible from the retired employees or from the employees who are due to retire within one year, of the order of the recovery.

However, the Respondent had not brought on record anything to establish that the Senior Scale was granted to the Complainant from 06/09/1995, due to any misrepresentation by the Complainant. Merely because the Complainant had requested the Department to review the date of Senior Scale, as ultimately it is the Department which decides the matter and as there was no manipulation by the Complainant, the Complainant cannot be faulted.

In the facts of the present case, the Commission held that the deduction of Rs.6,12,667/- from the gratuity amount of the Complainant after her retirement on 30/11/2022, was impermissible in law.

Accordingly, the Commission recommended that the Respondent refund to the Complainant, the wrongly deducted amount of Rs.6,12,667/- (Rupees six lakhs twelve thousand six hundred sixty seven only) from her gratuity amount, within 60 days from today alongwith simple interest at 6% per annum from 04/01/2024, till final payment.

On 09/12/2024, the Action Taken Report was received from the Respondent that sanction has been granted Rs.6,12,667/- (Rupees Six Lakhs Twelve Thousand Six Hundred Sixty Seven only).

7) Proceeding No.88/2024

This proceeding was disposed of by Inquiry Report dated 26/08/2024.

The complaint dated 15/04/2024, was received from the Complainant, Mr. Anand Rangnath Tari, in respect of wrong fixation of his pay scale and for refund of the recovery of an amount of Rs.54,906/- from his gratuity at the time of his retirement on 30/04/2023.

Accordingly, in the facts of the present case, the Commission found that all the applications preferred by the Complainant to correct/rectify his 02nd MACPS pay fixation were considered and rejected by the Government Departments. In this respect, the Commission finds that there has been no violation of human rights of the Complainant by the Respondent.

The grievance of the Complainant is about the wrongful deduction from his gratuity. From the reply of the Respondent No 1, i.e. the Captain of Ports, Panaji-Goa, it is seen that the Respondent had retired from Government service on 30/04/2023 as a Sailor, Group 'C'. They stated that when the pension case of the Complainant was sent to the Directorate of Accounts, it was returned with observations including that the pay fixation of 01st ACPS was incorrect i.e. the pay had been fixed at Rs.4500 instead of Rs.4400 and the Department was directed to examine the matter and action towards overpayment was initiated from the Complainant.

The Respondent stated that the Complainant had requested to adjust the recovery amount of Rs.54,906/- from his retirement gratuity and No Demand Certificate dated 11/07/2023 was issued and the matter of recovery was settled and the pension case was re-submitted to the Directorate of Accounts for his pension settlement and he had also given his Consent to recover from his pension/relief/gratuity any Government dues that have remained uncovered and any excess payment made.

The facts of the present case bring out that the Complainant had retired on superannuation on 30/04/2023 and after his retirement, on 11/07/2023, No Demand Certificate was issued.

The Commission noted that as held by the Supreme Court, where monetary benefits were given to the employees in excess of their entitlement due to unintentional mistakes committed by the concerned competent authorities in determining the emoluments payable to them and the employees were not guilty of furnishing any incorrect information/misrepresentation/fraud, which had led the concerned competent authorities to commit the mistake of making the higher payment to the employees, **no recoveries must be ordered or enforced after the retirement of such employees. In fact, the direction was not to recover from the retired employees or the employees who were due to retire within one year of the order of recovery.**

Guided by the Judgments of the Supreme Court, the Commission found that the Respondent could not have recovered the excess payment from his retirement gratuity, as the excess payment was not due to any mistake of the

Complainant. The undertaking given by him to refund any excess payment is of no consequence, in view of the law laid down by the Courts.

Guided by the Judgments of the Courts, in the facts of the present case, the Commission found that the Respondent could not have recovered the said overpayment of Rs.54,906/- from the gratuity amount of the Complainant after his retirement. It is also not the case of the Respondent that the excess payment was due to any misrepresentation by the Complainant.

Accordingly, the Commission recommended that the Respondent shall refund the recovered amount of Rs. 54,906/- (Rupees Fifty Four Thousand Nine Hundred and Six only) to the Complainant as expeditiously as possible and, in any case, not later than 60 days.

Copy of the Inquiry Report was sent to the Respondent, calling for their comments, including the action taken or proposed to be taken within a period of 60 days or on or before 28/10/2024, in terms of Section 18(e) of the Protection of Human Rights Act, 1993.

The Action Taken Report was received on 18/12/2024 that the amount of Rs. 54,906/-(Rupees Fifty Four Thousand Nine Hundred and Six only) along with the Interest of 8% per annum was been refunded to the Complainant.

8) Proceeding No.87/2024

This proceeding was disposed of by Inquiry Report dated 26/08/2024.

The complaint dated 15/04/2024, was received from the Complainant, Mr. Yeshwant K. Shet, complaining of recovery at the time of his retirement on 01/06/2018, on the excess amount paid to him.

He was working as a Helmsman, Group 'C' worker in the Captain of Ports Department and had retired on 01/06/2018.

On perusing the complaint, the Commission by Order dated 10/06/2024, called for the reply from the Respondent, Captain of Ports Department.

The Respondent filed their reply dated 18/07/2024.

On going through the complaint, the reply of the Respondent and the documents of the Parties, the Commission found that there is no dispute that the Complainant had retired on superannuation from the Government service on 31/05/2018.

As per the Respondent, when the pension case of the Complainant was sent to the Directorate of Accounts for pension settlement, the same were

returned with observation regarding action initiated of overpayment of 2nd MACPS. Accordingly, the Respondent rectified the Grade Pay of the Complainant to Rs.2000 by Order dated 23/05/2018 and an amount of Rs.1,01,241/- was recovered from the retirement gratuity of the Complainant on obtaining the consent of the Complainant to recover the Government dues from his pension relief/gratuity.

Before the Division Bench of the Supreme Court of India, in **Civil Appeal No. 7115 OF 2010, Thomas Daniel Versus State of Kerala & Ors.**, decided by Judgment dated 2nd May 2022, the issue was as to whether increments granted to the appellant, while he was in service, can be recovered from him almost 10 years after his retirement on the ground that the said increments were granted on account of an error. In paragraph (9), the Supreme Court noted that the Court in a catena of decisions has consistently held that if the excess amount was not paid on account of any misrepresentation or fraud of the employee or if such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order which is subsequently found to be erroneous, **such excess payment of emoluments or allowances are not recoverable**. In paragraph 28, it held that such relief, restraining back recovery of excess payment, is granted by courts not because of any right in the employees, but in equity, in exercise of judicial discretion to relieve the employees from the hardship that will be caused if recovery is implemented.

Guided by the above Judgments, the Commission found that the Respondent could not have recovered the excess payment from his retirement gratuity, as the excess payment was not due to any mistake of the Complainant. The undertaking given by him to refund any excess payment is of no consequence, in view of the law laid down by the Courts.

Guided by the Judgment of the High Court of Bombay at Goa, in the facts of the present case, the Commission found that the Respondent could not have recovered the said overpayment of Rs.1,01,241/- from the gratuity amount of the Complainant about two months before his retirement and without notice to him and it is not the case of the Respondent that the excess payment was due to any misrepresentation by the Complainant.

Accordingly, the Commission recommended that the Respondent shall refund the recovered amount of Rs.1,01,241/- (Rupees One Lakh One Thousand Two Hundred and Forty One only) to the Complainant as expeditiously as possible and, in any case, not later than 60 days. If this amount is not paid to the Complainant within 60 days from, it was to carry

interest at the rate of 8% per annum beginning from the date of this order until the date of payment.

The copy of the Action Taken Report was forwarded to the Respondent calling for their comments and the Order dated 24/05/2025 was received from the Respondent that sanction of government was conveyed for refund an amount of recovery plus interest of Rs 104,459/- (Rupees One Lakh Four Thousand Four Hundred and Fifty Nine) to the Complainant.

9) Proceeding No.117/2024

This proceeding was disposed of by Inquiry Report dated 27/08/2024.

The complaint dated 05/06/2024, was received in the Commission in respect of the recovery from his gratuity on his retirement.

The Complainant, Mr. Peter Fernandes, was appointed as a Draughtsman by the Public Works Department, Government of Goa and joined his duties on 16/10/1987 and retired on 31/03/2024. On his pension papers being sent to the Directorate of Accounts on 05/07/2023, the same were returned back with the observation mentioning that he was given an extra increment in the year 2006 and they had asked to recover the amount of Rs.3,20,061/- (Rupees Three Lakhs Twenty Thousand and Sixty One only) from his retirement gratuity benefits. As such, he approached this Commission for refund of the amount deducted for no fault of his.

The Respondent, No.1, i.e. the Principal Chief Engineer, Public works Department Altinho, Panaji- Goa in their reply has stated that after the pension case was submitted to the Directorate of Accounts, they had pointed out that the pay of the Complainant fixed on 01/01/2006 was incorrect.

Accordingly, the Respondent re-fixed his pay as on 01/01/2006. They stated that the Complainant retired with effect from 31/03/2024 and recovery amount of Rs.3,20,061/- was effected from his retirement gratuity and Rs.3608/- was paid vide challan dated 03/01/2024.

Guided by the Judgments of the Courts, the Commission found that the Respondent could not have recovered the excess payment from his retirement gratuity, as the excess payment was not due to any mistake of the Complainant.

In the present case, the Complainant had retired on 31/03/2024 and just two months prior to his retirement i.e. on 03/01/2024, the amount of Rs.3,20,061/- was recovered from his retirement gratuity.

Guided by the Judgment of the High Court of Bombay at Goa, in the facts of the present case, the Commission found that the Respondent could not

have recovered the said overpayment of Rs.3,20,061/- from the gratuity amount of the Complainant about two months before his retirement and without notice to him and it is not the case of the Respondent that the excess payment was due to any misrepresentation by the Complainant.

Accordingly, the Commission recommended that the Respondent shall refund the recovered amount of Rs. Rs.3,20,061/- (Rupees Three Lakhs Twenty Thousand and Sixty One only) to the Complainant as expeditiously as possible and, in any case, not later than 60 days.

The Action Taken Report dated 29/11/2024 was received from the Respondent then the finance department had conveyed the approval to refund the recovered amount of Rs.3,20,061/- (Rupees Three Lakhs Twenty Thousand and Sixty One only) to the Complainant.

10) Proceeding No.53/2024

This proceeding was disposed of by Inquiry Report dated 27/08/2024.

The complaint dated 20/02/2024, was received from the Complainant, Shri. Chandrakant N. Bhagat, in respect of the recovery from his gratuity on his retirement.

The Commission has gone through the complaint, the documents attached thereto, the reply of the Respondent No.4 The Headmaster, Shri. Mallikarjun Vidyalaya High School, Canacona-Goa and has considered the submissions of the respected Parties.

The Commission finds that the Complainant had been appointed as a Lower Division Clerk in Shri Mallikarjun Vidyalaya High School, Canacona-Goa, where he joined on 01/08/1986. He retired on superannuation as an Upper Division Clerk on 31/08/2023. It was his case that when his pension papers were submitted to the Directorate of Accounts through the South Education Zone, Directorate of Accounts raised objection with regard to wrong date of sanctioning of ACPS I and MACPS II with wrong fixations and the Order dated 30/06/2023, issued by the School Management re-fixing his pay, resulted in recovery of Rs.10,35,456/- from his gratuity amount. He approached the Commission for refund of the said amount.

The Respondent No.4 in their reply admitted that the Complainant had been appointed as a Lower Division Clerk (L.D.C.) in their school from 01/08/1986 and was subsequently promoted as an U.D.C. They stated that the Directorate of Accounts by letter dated 18/04/2023, had directed the school authorities to revise his pay scale which had been wrongly fixed and the excess payment of Rs.10,35,456/-, was deducted from his retirement gratuity. They stated that when making the pay fixation, the Complainant had given an

undertaking to refund any excess payment which may be found to be made to him.

The Commission has gone through the complaint, the documents attached thereto, the reply of the Respondent No.4 and has considered the submissions of the respective Parties. The Complainant had been appointed as a Lower Division Clerk in the Mallikarjun Vidalaya, Canacona-Goa, where he joined on 01/08/1986. He retired on superannuation as an Upper Division Clerk on 31/08/2023. After his retirement, he received the payments of his pensionary benefits by letter dated 15/01/2024.

The Complainant had relied on the Order No. 8/4/2021-FIN (R&C)/1854 dated 08/09/2021 of the Government of Goa, which had been issued to all the departments that in order to avoid excess payments arising due to unintentional mistakes/administrative errors, the concerned Head of Departments/Head of Offices were directed to carry out verification of all fixation of pay, at all intervening Pay Commissions/up-gradations/promotions, etc. in respect of all the employees under their control within a period of six months from the date of issuance of the Order. As the Order was issued on 08/09/2021, the verification had to be completed by 08th March 2022.

From the said Order, the excess payments detected were to be recovered and all Heads of Departments had to send a certificate within the aforesaid period specifying that the pay fixations of all the staff within the purview of their Department is verified and that there are no errors. The Order had further stated that in future, if such lapses are detected, the responsibility would be fixed on the concerned officials responsible for the erroneous pay fixation.

In the present case, nothing has been brought on record by the Respondent No.4, that after the said Order dated 08/09/2021, they had carried out the verification of all fixation of pay of all employees including the Complainant, or that they had found any errors and detected any excess payments.

Accordingly, the Commission found that the Respondents could not have ordered the recovery of the excess payment which was not due to any mistake of the Complainant.

On going through the authorities relied on by the Parties, the Commission found that the authorities relied on by the Complainant apply to the facts of present case, whereas, the authorities relied upon by the Respondent No.2, are in different circumstances.

In the present case, the Complainant had retired as U.D.C. on 31/08/2023. Prior to his retirement, when his pension papers were sent by the

Respondent No.4 to the Respondent No.1, the Respondent No.1 had found wrong fixations during his service and only on 30/06/2023, i.e. two months prior to his retirement, the School Management re-fixed his pay.

In the present case, the order of recovery was passed just before the retirement of the Complainant, on 31/08/2023. Accordingly, the Commission held that the recovery was bad in law and the Complainant is entitled for refund of the said amount. The undertaking given by him to refund any excess payment is of no consequence, in view of the law laid down by the Courts.

Guided by the Judgment of the High Court of Bombay at Goa, in the facts of the present case, the Commission found that the Respondents could not have recovered the said overpayment of Rs.10,35,456/- from the gratuity amount of the Complainant after his retirement and without notice to him and it is not the case of the Respondents that the excess payment was due to any misrepresentation by the Complainant.

Accordingly, the Commission recommended that the Respondents shall refund the recovered amount of Rs.10,35,456/- (Rupees Ten Lakhs Thirty Five Thousand Four Hundred and Fifty Six only) to the Complainant as expeditiously as possible and, in any case, not later than 60 days. If this amount is not paid to the Complainant within 60 days from today, it was to carry interest at the rate of 8% per annum beginning from the date of this order until the date of payment.

Copy of the Inquiry Report was sent to the Respondents No.1, 2, 3 and 4, calling for their comments, including the action taken or proposed to be taken within a period of 60 days or on or before 28/10/2024, in terms of Section 18(e) of the Protection of Human Rights Act, 1993.

Reminders had been sent to the Respondents No.2 and 3 for Action Taken Report and the action taken report is awaited.

11) Proceeding No.115/2023

This proceeding was disposed of by Inquiry Report dated 18/10/2024.

The Complaint dated 07/09/2023, was received in the Commission about her Violation of Human Rights.

The grievance of the Complainant, Smt. Sushma Karapurkar, is in respect of non release to her of the full pension of her deceased husband, who had expired in 2002 while in service and was holding the post of Upper Division Clerk in the Town and Country Planning Department.

On the death of her husband, there was another claim for pensionary benefit from one Smt. Nalini Karapurkar, stating that she is

the second wife of the late Vasudev Karapurkar and having two children from the said marriage.

The Government referred the matter to the Ombudsman, who gave his Report on 25/02/2008, recommending that the family pension and pensionary benefit of the late Shri Vasudev Karapurkar may be released in two equal halves, one half to the first wife, i.e the present Complainant and the other half to the eligible child of the second wife, i.e. Mast. Vivek Vasudev Karapurkar who was born on 26/06/1998. The same report also held that the Ms. Ankita Vasudev Karapurkar was born on 17/05/1994.

In the said report of the Ombudsman, it was stated that the minor children would be entitled to the family pension till they attain majority and the only eligible child of the second wife was Mast. Vivek Vasudev Karapurkar.

The State Government accepted the report of the Ombudsman and the Pension Sanctioning Authority passed the Order in the year 2009 for disbursing 50% of the family pension to Mast. Vivek Karapurkar and the Complainant was receiving 50% pension.

Under the CCS (pension) rules, 2021, a person becomes ineligible to receive pension on attaining 25 years of age, which Mast. Vivek Karapurkar attained on 26/06/2023.

On 08/06/2023, the Complainant sent her letter to the Chief Town Planner, who issued the Order reverting payment of the remaining 50% family pension in the favor of the Complainant.

The Chief Town Planner on 19/06/2023 forwarded the Complainant's letter to the Director of Accounts and the Deputy Director of Accounts, by letter dated 17/07/2023, requested the Chief Town planner to issue the Order sanctioning the second half share comprising the 50% family pension to the Complainant, with effect from 27/06/2023. This is accepted by the Respondent in their reply.

On receiving the said letter, the Respondent did not issue the payment reverting Order and asked the Complainant to submit status of the second child. In their reply in this respect, the Respondent stated that the Complainant did not submit the status of the second child till date. During the course of the Proceedings, the office of the Senior Town Planner passed the Sanction Order dated 20/06/2024, for payment of the remaining 50% share of the family pension to the Complainant with effect from 26/06/2023.

The other issue that remains is whether there was unreasonable delay on part of the Respondent in reversion of the balance of 50% share of the family pension to the Complainant, there by violating the human rights of the Complainant.

Learned Adv. Ms. Harsha Naik for the Respondent submitted that the delay was due to the Complainant, for not submitting the details of the second child.

From the records, the Commission found that the Report dated 25/02/2008, of the Ombudsman, had held that Ms. Ankita Karapurkar was born on 17/05/1994. Hence, she had completed 25 years of age on 17/05/2019. She was the elder daughter from the second marriage and the Ombudsman has clearly held that the second son, Mast. Vivek Karapurkar who was born on 26/06/1998, would be eligible to the 50% pension till he attained majority i.e. 26/06/2023.

The Commission agreed with the submission of Shri Raya Karapurkar, the son of the Complainant, that there was negligence on the part of the Respondent in not reverting the remaining 50% family pension to the Complainant, as per the letter of Deputy Director of Accounts dated 17/07/2023.

And hence, the Complainant was entitled for the amount of compensation of Rs. 8000/- as claimed in the complaint, which the Commission considered as reasonable amount for the delay of over a year in reverting the remaining 50% family pension to the Complainant.

The Inquiry Report was forwarded to the Respondent to furnish their comments. The Respondent had replied on 04/03/2025, that the Government had conveyed its decision, wherein it is stated that the recommendations are not accepted as it does not appear to be justified.

12) Review Application No:- 03/2024 in Proceeding No.34/2024

This proceeding was disposed of by Inquiry Report dated 06/12/2024.

This was a Review Application filed by the Applicant, Smt. Ujwala Shrikant Kalangutkar, on 12/07/2024, for Review of the Inquiry Report dated 25/06/2024, passed by this Commission.

In the Inquiry Report dated 25/06/2024, the Commission had recommended that the Respondent No.2, The Bank Manager, Bank of India, Link Branch, Panaji-Goa, recover the overpayment made to the Complainant from the future pension payments in installments of not more than 1/3rd of the net payment made each month, till the full recovery of the excess payment.

The present Applicant approached this Commission with the Review Application praying for the total waiver of the excess payment made to the Applicant and also directing the Respondent No.2 to refund the excess amount recovered till date based on the judgments of the Supreme Court.

Based on the judgments of the Supreme Court, the law is clear that where the excess payment made is paid due to the unintentional mistakes committed by the concerned authorities, in determining emoluments payable to them and the employees were not guilty of furnishing any incorrect information/misrepresentation/fraud, which had led the concerned authorities to commit the mistake of making higher payment to the employees, the recoveries would be impermissible in law.

In the present case, the present Applicant is a family pensioner, who is receiving the family pension from July 2004.

She was eligible for enhanced pension from 01/01/2006 till 08/07/2013. The Respondent No.2 has stated that the excess pension was paid to her after 08/07/2013 till August 2021, amounting to Rs.5,91,632/-.

As rightly submitted on behalf of the Complainant, the excess pension amount paid to the Complainant was due to the mistakes on behalf of the Respondent No.2 through their Nerul Branch and not due to any misrepresentation made by the Applicant. Moreover, in their reply dated 27/11/2024, it has been stated that ***they accept that the overpayment of pension to Ujwala S. Kalangutkar is a bonafide mistake from the side of the Bank.***

The Commission held that accordingly the Respondent No.2 could not have recovered the excess pension paid to the Applicant where there was no fault on her part. The Supreme Court has time and again emphasized that where the recovery made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover, the recovery would be impermissible in law.

Accordingly, the Commission in exercise of their powers of Review in terms of Regulation 20 of the Goa Human Rights Commission (Procedure) Regulations, 2011, reviewed the Inquiry Report dated 25/06/2024 and recommended that the Respondent No.2 through its Nerul Branch forthwith stop any further recovery from the pension of the Applicant towards the excess pension payment to her earlier and also refund to the Applicant the recoveries

already made of the excess pension paid of Rs.42,799/- as on 02/07/2024 and also refund the further recoveries made as on date.

Copy of the Order was to the Respondent No.2, calling for their comments, including the action taken or proposed to be taken within a period of 60 days or on or before 06/02/2025.

Action Taken Report was received from the Respondent of compliance.

13) Proceeding No.124/2024

This proceeding was disposed of by Inquiry Report dated 03/01/2025.

The complaint dated 20/06/2024, was received from the Complainant, Smt. Radabai Krishna Morajkar, for urgently resolving her toilet facility issue.

The Commission has gone through the complaint, the replies of the Respondents No. 1, The Secretary, Village Panchayat of Anjuna-Caisua, Bardez-Goa and Respondent No 2, The Director of Panchayats, Directorate of Panchayats, Panaji-Goa the documents of the Parties and has considered the submissions on behalf of the Complainant and the Respondent No.2.

The Complainant is a senior citizen of 81 years of age, who resides at House No.1/203, at Anjuna, Bardez-Goa. The fees of Rs.10,000/- had been deposited by her son with the Respondent No.1 on 18/02/2019, for the construction of her toilet and she stated that the facility remains incomplete due to the absence of a soak pit.

The Complainant had also stated that despite several requests to the Panchayat, the facility had not been completed and accordingly, approached this Commission.

The Respondent No.1 in their reply had stated that the Panchayat had received 43 applications for construction of toilets in the prescribed format and on behalf of the Complainant, her son Mr. Mohan Krishna Morajkar had also paid an amount of Rs.10,000/-. However, as there was a dispute between the tenant and the landowner, the construction of the toilet of the Complainant could not be completed.

The Respondent No.2 in their reply stated that the Swachh Bharat Mission (SBM) was launched by the Ministry of Drinking Water and Sanitation and from 2018, the Directorate of Panchayats was designated as a Nodal Agency for SBM. They also stated that the Government of Goa had appointed Goa Waste Management Corporation as the implementing agency for executing the work of installation of Individual House Hold Latrine (IHHL).

The Respondent No.2 admitted that Shri Mohan Krishna Morajkar had made the payment of Rs.10,000/- before the Village Panchayat Anjuna-Caisua of Bardez Taluka towards the construction of the toilet.

The Respondent No.2 further stated that the Goa Waste Management Corporation vide email dated 08/09/2023, had informed that the Individual House Hold Latrine (IHHL) could not be constructed due to the non-availability of land, land disputes and the installation of IHHL is completed about 70%.

At the time of arguments, learned Adv. Shri A. Bacal for the Complainant referred to Section 94A of the Goa Public Health Act, 1985, under which it is provided that the Government may order any authorities/local bodies to grant, supply, provide and ensure supply of potable water and such other essential services.

On 21/05/2019, the Director of Panchayats had issued a Circular in respect of the Scheme for supply and installation of Individual House Hold Bio-Digester toilets in the State of Goa. As rightly pointed by the learned Advocate for the Complainant, as per the Circular, the Bio-Digester toilets on the receipt of applications, ***have to be provided without NOC/consent of the owner/landlord.*** In terms of the Circular, in the event of any dispute as regards land, etc., such dispute, lis, proceedings, right, privilege shall remain unaffected and shall not prejudice any person in any way whatsoever. In terms of the Circular, the Director of Panchayats was one of the authorities to sanction benefits under the scheme, if the applicant is otherwise eligible.

On behalf of the Respondent No.2, the Block Development Officer submitted that the installation of the Bio-digester toilet for the Complainant was completed 70%, but it could not be fully completed due to land disputes.

As the Complainant had applied for the Bio-digester toilet on announcing of the scheme and the amount of Rs.10,000/- had been deposited by her son way back in 2019, as per receipt No.083 in Book No. 1330 of the Village Panchayat, Anjuna-Caisua, it was the responsibility of the Respondents No.1 and 2 to complete the toilet construction with the functional soak pit. Merely because of the land dispute by the owner of the property, the Respondents No. 1 and 2 could not have stopped the construction and installation of the Bio-digester toilet.

The complaint indicated that the Complainant is a senior citizen of 81 years of age and also has a son, Mr. Gajanand Krishna Morajkar, aged 35 years, who is a psychiatric patient with a permanent disability. Due to non-completion of their toilet by the Respondents No.1 and 2, their human rights stand violated.

In the facts of the present case, the Commission found that the Complainant has to be provided with relief by this Commission, as in the absence of the completed toilet, they have to go out in the open to answer nature's calls.

In the present case as the violation of the human rights of the Complainant is disclosed due to the negligence of Respondents No. 1 and 2 in prevention of the violation, the Commission recommends that the Respondents No.1 and 2, forthwith complete, through the authorized agencies, the toilet construction with functional soak pit near the house of the Complainant which is pending from 2019 for more than 5 (five) years, by completing the balance 30% of the work, within 60 days from today.

Copy of the Inquiry Report was sent to the Respondents No. 1 and 2, calling for their comments, including the action taken or proposed to be taken within a period of 60 days or on or before 04/03/2025, in terms of Section 18(e) of the Protection of Human Rights Act, 1993.

The Action Taken Report is still awaited.

14) Proceeding No.149/2024

This proceeding was disposed of by Inquiry Report dated 10/01/2025.

The complaint dated 21/08/2024, was received from the Complainant, Shri Johny D'Souza in respect of wrongful recovery of an amount of Rs.3,41,785/- from his gratuity after his retirement.

The undisputed facts are that the Complainant was appointed as a Watchman vide Order dated 16/12/1987 and posted in the Government High School, Agarwada, Pernem-Goa. He was promoted to the post of Driver vide Order dated 28/11/1990 and posted in State Institute of Education, Porvorim-Goa, now named as State Council of Education and Research Training (SCERT) under the Directorate of Education, Porvorim-Goa. He retired on superannuation on 31/07/2024.

On behalf of the Respondent No.1, The Director Directorate of Education, Porvorim-Goa it was stated that after verification of the service book of the Complainant, it was found that 1st and 2nd Up gradation were granted erroneously and he was issued Memorandum dated 05/11/2020 and he was directed to repay the excess amount of Rs.3,41,785/-.

The Respondent No.1 stated that the Complainant had repeatedly submitted requests for the waiver of the excess payment vide his applications dated 15/01/2024, 16/04/2021 and 16/03/2022. It is stated in Para 9 of the reply of the Respondent No.1 that there was delay in executing the recovery,

leading to the deduction of the amount from his gratuity upon retirement on superannuation. But he had consented by Undertaking dated 15/01/2024, for the refund of the excess amount during the settlement of his pension.

Guided by the Judgments of the Courts, the Commission found that the Respondent No.1 could not have recovered the excess payment from his retirement gratuity, as the excess payment was not due to any mistake of the Complainant.

In the present case, the Complainant had retired on 31/07/2024 and just ten days before his retirement, the letter of Payment of Pension, Gratuity and Commutation dated 22/07/2024, was issued to recover the amount of Rs.3,41,785/- from his retirement gratuity.

Guided by the Judgment of the High Court of Bombay at Goa, in the facts of the present case, the Commission found that the Respondent No.1 could not have recovered the said overpayment of Rs.3,41,785/- from the gratuity amount of the Complainant just ten days before his retirement and it is not the case of the Respondent No.1 that the excess payment was due to any misrepresentation by the Complainant. The Undertaking/Consent obtained from the Complainant dated 15/01/2024, cannot deprive him of his rights arising from the law laid down in the earlier referred Judgments.

Accordingly, the Commission recommended that the Respondent No.1 shall refund the recovered amount of Rs.3,41,785/- (Rupees Three Lakhs Forty One Thousand Seven Hundred and Eighty Five only) to the Complainant as expeditiously as possible and, in any case, not later than 60 days. If this amount was not paid to the Complainant within 60 days, it was to carry interest at the rate of 8% per annum beginning from the date of this order until the date of payment.

Action Taken Report was called from the Respondent and is awaited.

15) Proceeding No.179/2024

This proceeding was disposed of by Inquiry Report dated 26/02/2025.

The complaint was received from the Complainant, Shri Pundalik G. Gaonkar, on 26/11/2024, for refund of the recovery of an amount of Rs.1,98,030/-, recovered from his gratuity at the time of his retirement.

The grievance of the Complainant is about the wrongful deduction from his gratuity. From the reply of the Respondent, The Captain of Ports , Captain of Ports Department, Panaji-Goa it is seen that the Respondent had joined the Department on 05/08/1997 and retired from Government service on 30/04/2024 as Helmsman, Group 'C' worker.

The Respondent stated that upon verifying the pay fixation of the official, it was seen that he was erroneously granted higher grade pay at the time of financial upgradation under MACPS, in the grade pay of Rs 2400/- instead of Rs 2000/-.

They further stated that a Due and Drawn Statement (Page 10/C to 13/C) was prepared and amount of Rs 1,98,030/- (Rupees One Lakh Ninety Eight Thousand Thirty only) was recovered from the Retirement Gratuity and the balance amount Rs 8,29,889/- (Rupees Eight Lakh Twenty Nine Thousand Eight Hundred Eighty Nine only) was paid to Shri Pundalik G Gaonkar.

The facts of the present case bring out that the Complainant had retired on superannuation on 30/04/2024.

Both the decisions of the courts hold that where monetary benefits were given to the employees in excess of their entitlement due to unintentional mistakes committed by the concerned competent authorities in determining the emoluments payable to them and the employees were not guilty of furnishing any incorrect information/misrepresentation/fraud, which had led the concerned competent authorities to commit the mistake of making the higher payment to the employees, no recoveries must be ordered or enforced after the retirement of such employees. **In fact, the direction was not to recover from the retired employees or the employees who were due to retire within one year of the order of recovery.**

Guided by the Judgments, the Commission found that the Respondent could not have recovered the excess payment from his retirement gratuity, after his retirement in 2024, as the excess payment was not due to any mistake of the Complainant.

Relying on the Judgment of the High Court of Bombay at Goa (supra), in the facts of the present case, the Commission finds that the Respondent could not have recovered the said overpayment of Rs 1,98,030/- from the gratuity amount of the Complainant after his retirement. It is also not the case of the Respondent that the excess payment was due to any misrepresentation by the Complainant.

Accordingly, the Commission recommended that the Respondent shall refund the recovered amount of **Rs 1,98,030/- (Rupees One Lakh Ninety Eight Thousand and Thirty only)** to the Complainant as expeditiously as possible and, in any case, not later than 60 days.

Copy of the Inquiry Report was sent to the Respondent, calling for their comments, including the action taken or proposed to be taken within a period

of 60 days or on or before 26/04/2025, in terms of Section 18(e) of the Protection of Human Rights Act, 1993.

Action Taken Report is still awaited.

16) Proceeding No.176/2024

This proceeding was disposed of by Inquiry Report dated 26/02/2025.

The complaint dated 18/11/2024 was received on behalf of the Anonymous staff in the jurisdiction of the Collector, North Goa and the 5 offices of the Mamlatdars of North Goa District.

On perusing the complaint, the Commission by Order dated 04/12/2024, issued notice to the Respondent, i.e the Collector North Goa District, calling for their reply.

The Commission has gone through the complaint and considered the reply of the Respondent and arguments advanced.

The grievances in the complaint are in respect of the Memorandum, dated 30/10/2024, issued by Collector, North Goa, for disposal of Tenancy and Mundkar cases, in a time bound manner.

Accordingly the Commission recommended that the Collector of North Goa District shall amend the Memorandum dated 30/10/2024, to the extent of **withdrawing that part of the Memorandum that no compensatory off shall be granted to the staff who are attending the offices on Saturdays.**

As per the Memorandum, the staff of offices of the Deputy Collector and Mamlatdars, shall attend office on Saturdays as directed by the Presiding Officers of the Revenue courts, in order to assist them for conducting hearings.

As per the Memorandum, it is stated that **no compensatory off shall be granted for the same.**

The Complaint states that this is a clear violation of the law in force which stipulates that the extra hours work must be compensated in the form of overtime pay or compensatory leave.

In the reply, the Respondent states that the Office Memorandum was issued in pursuance of the Order dated 14/09/2022 of the Revenue Department and the Order dated 31/03/2023 of the High Court of Bombay at Goa, to clear the pending backlog of cases. This was also argued by Ms. D'Costa for the Respondent.

There is the **Office Memorandum, dated 11th August 1976, bearing No.15011/2/E.II(B)/76, of the Ministry of Finance of the Government of India**, on the subject of “Overtime Allowance”, to Government Employees.

Clause 3 (ii) of the Office Memorandum reads as under:-

“The staff who are required to perform overtime duty for the full prescribed hours of work on Sundays (or other weekly or fortnightly off-day or Second Saturdays) or on other holidays/ public holidays should, as a rule, be granted compensatory leave in lieu. Employees who are required to work on such days beyond full day may be allowed a day’s compensatory leave in lieu of the full day’s work and paid overtime allowance for the excess time put by them minus one hour free duty. In cases where an employee is required to work for half a day or less, e.g. from the time the office opens till lunch time, two such half days should be taken a equivalent to one full day for the purpose of grant of compensatory leave. Where necessary half a day’s compensatory leave may be given.”

The Commission has also taken note of the **Central Civil Services (Leave) Rules 1972**, which govern the grant of leave applicable to all government servants.

One of the provisions of the Rules is as under:-

“Compensatory off can be availed of by a government servant in lieu of his/her working on a holiday, provided no other financial incentives are granted (OTA/Honorarium) for that day. Normally, it should be availed of within a month and in that case there is no limit to the number of compensatory off.

In case it could not be taken within a month, a government servant in the subsequent calendar month could avail of a maximum of two compensatory off, with special permission from the Joint Secretary in-charge of Administration/Head of Department.”

From the above provisions, it is seen that when a government servant, other than a Gazetted Officer, works on holidays, he/she has to be granted compensatory leave in lieu of duty performed on holidays, as a rule, which generally has to be availed of within a month.

In the present case the Commission appreciated that the Respondent Collector, in view of the directions of the High Court of Bombay at Goa dated 31/03/2023 in **WRIT PETITION NO.196/2022 WITH WRIT PETITION NO.201/2022, Linus Mario DLIMA vs. State of Goa**, had issued directions to strictly implement the Goa Government’s Order dated 14/09/2022 and dispose of the pending cases under the **Tenancy and Mundkar Acts**, as expeditiously

as possible and in any case within the timeline set out in the Goa Government's Order dated 14/09/2022.

There is however no whisper in the Order of the High Court, interalia, that in lieu of the same, no compensatory off would be granted to the Government Servants. So also in the Order dated 14/09/2022 issued by the Government of Goa, one of the directives, under clause (vi), was that the special designated Mamlatdars shall also hold revenue courts on Saturdays to ensure the timely disposal of cases. The said Order did not state that compensatory off was not to be granted.

Hence, the Commission did not agree with that part of the Memorandum dated 30/10/2024 that no compensatory off shall be granted to the staff who attend the offices on Saturdays as per the Order of the Presiding Officers, which results in the violation of the human rights of the staff and also violates the Office Memorandum, dated 11th August 1976, bearing No.15011/2/E.II(B)/76, of the Ministry of Finance of the Government of India and Central Civil Services (Leave) Rules 1972, which deal with granting of compensatory leave.

Accordingly the Commission recommended that the Collector of North Goa District shall amend the Memorandum dated 30/10/2024, to the extent of **withdrawing that part of the Memorandum that no compensatory off shall be granted to the staff who are attending the offices on Saturdays.**

Copy of the Inquiry Report was sent to the Respondent, calling for their comments, including the action taken or proposed to be taken within a period of 30 days or on or before 28/03/2025, in terms of Section 18(e) of the Protection of Human Rights Act, 1993.

Then on 17/03/2025, the Action Taken Report was received from the Respondent informing that the Memorandum dated 13/10/2024, was withdrawn subject to some conditions.

17) Proceeding No.175/2024

This proceeding was disposed of by Inquiry Report dated 26/02/2025.

The Complaint dated 13/11/2024, was received from the Residents of Vailankanni Apartments and Carl Centre, C/o. H.No.O-48/M, Vailankanni Apartments, Near Old Goa Police Station, Ella, Se Old Goa, Goa-403402.

The Commission passed the Order dated 19/11/2024, to issue notices to the Respondents, the Secretary, Village Panchayat Se Old Goa Tiswadi- Goa

and to file the reply. On hearing the Arguments, the Inquiry Report was passed.

On going through the complaint and Replies filed by the Respondents No. 1 and 2, and documents of the parties, the Commission found that there are stalls on the footpath in front of the Vailankani Apartments and Carl Centre at Old Goa, obstructing the footpath thereby violating Human Rights of the complainants.

Respondent No.1 stated that the stalls are moving carts, but Advocate for the complainants submitted that they are not moving carts, but they are at fixed places.

In the facts of the present case, the Commission recommended that the Respondent No.1 forthwith, takes steps for clearing the footpath of stalls and obstructions in front of the Vailankani Apartments and Carl Centre at Old Goa, for which the Respondent No.2 shall provide the necessary Police protection.

The Respondents No.1 and No.2, were to submit Action Taken Report within 60 days.

On 21/03/2025, the Action Taken Report was filed by the Respondent No.1 that the Order of the Commission was implemented in totality.

18) Proceeding No.172/2024

This proceeding was disposed of by Inquiry Report dated 21/03/2025.

The complaint dated 07/11/2024, was received from the Complainant, Shri Paresh Vasant Salgaonkar, in respect of the water supply to the building, 'Mudras Mansion' at Santa-Cruz.

On perusing the complaint, the Commission issued notices to Respondents No.1, The Assistant Engineer, Sub Division I, Division III (PHEN), Public Works Departments, St. Inez, Panaji-Goa, Respondent No 2, The Medical Officer, Primary Health Centre Chimbél, Bambolim-Goa and Respondent No 3, Mr. Mukundraj Mudras, Mudras Mansion, Calapor, Tiswadi-Goa calling for their replies.

Subsequently Respondents No.4 to 7 was added as parties being occupants of the other flats in 'Mudras Mansion' Respondent No.3 is the occupant of three of the 8 flats in the building.

Replies were filed by Respondents No.2, 3, 4 and 6. Arguments were heard of Shri Sunil Shet, Assistant Engineer for Respondent No.1 and of Respondents No. 3, 5, 6 and 7 in person.

After hearing the Complainant, Respondents No.1, 3, 5, 6 and 7, the Commission on the basis of the above provisions of The Goa Public Health Act 1985, reiterates that the essential service like water and electricity supply is a human right and it is a must to maintain basic human living conditions.

The Commission accordingly recommended that in interest of public health and to protect human rights of the occupants of the other 5 flats of 'Mudras Mansion' i.e. the Complainant, Respondents No.4, 5, 6, and 7, a common water connection and a common electricity connection, be released to the occupants of the remaining 5 flats in the name of Ruben Quadros, the Respondent No.5 on his application.

There is a common sump available at the ground level and a common over-head Tank, as submitted by the Respondent No.3, Shri Mukundraj Mudras.

The Respondent No.5 to prepare an estimate of the expenses for using the common sump and common overhead tank, with pipelines to the 5 flats and for purchase of a pump and for a common electricity meter. On sharing the estimated expenses with the other 4 flat occupants and they contributing and paying the Respondent NO.5, their proportionate shares of the expenses, Respondent No.5 to apply to the Primary Health Centre, Chimbél, for release of common water connection and Electricity connection for the common meter, as essential services under Section 94(A) of the Goa Public Health Act, 1985.

THE Action Taken Report is awaited.

REPORT OF VISIT TO CENTRAL JAIL, COLVALE ON 24/10/2024

A 10 member team of the Goa Human Rights Commission visited the Central Jail at Colvale on 24th October 2024, to create awareness of Human Rights of the Inmates during Incarceration.

The delegation included the Acting Chairperson, Shri Desmond D'Costa; Member, Shri Pramod V. Kamat; Secretary, Ms. Biju R. Naik; Under Secretary, Smt. Anita S. Bhosle; Section Officer, Shri Umesh N. Desai; Legal Assistant, Shri Nitesh N. Ambekar and other staff.

The delegation was accompanied by the Additional Inspector General of Prisons, Dr. S.P. Goltekar; the Superintendent, Shri Shankar Gaonkar and other Jail Officers.

The delegation also visited the carpentry unit, the candle making unit, etc. and was happy to see that several of the convicts and undertrials, who

have volunteered, have been trained and developed artistic skills and they are paid daily wages for their work and the products are put up for sale.

The Goa Human Rights Commission visited some of the Cells of undertrials and listened to their grievances.

In the Women's Block, a programme was held to create awareness on the Human Rights of the Inmates through a PowerPoint Presentation by use of the projector available.

The women spoke on several problems faced by them and the Grievances were noted by the Jail Officials for appropriate action.

The Commission based on its observations makes the following recommendations for resolving the problems of the Inmates:-

- 1) The Jail buildings/premises are in a dilapidated and very bad condition, and therefore there is an urgent need of repairs to improve the conditions. So also, there is an urgent need for painting the premises.
- 2) The toilets without Doors in the Male as well as the Female Blocks violate the human right to privacy of the inmates, and hence, this needs to be resolved on priority.
- 3) The sewage system is in a bad condition resulting in a stink in the premises, which calls for urgent attention to improve the hygienic conditions.
- 4) There is no Female Medical Officer for examining the women Inmates and there was a request for a female or male Nurse. The Prison administration to take steps to get at least One Lady Medical Officer posted in the Jail, and two Nurses, one male and one female.
- 5) The women undertrials complained that, when they are brought for the first time by the Police, they are not allowed to bring their Clothes. The Police be advised to allow their Clothes to be produced. So also, the Jail administration needs to provide the undertrials adequate clothes for their use to safeguard their human dignity.
- 6) There was a general complaint of lack of escorts for producing the undertrials in the Courts and taking those in need for medical attention. They voiced their concerns of not getting police escorts for being taken to the court for hearings as well their desire to attend personally the court hearings so that they get an opportunity to instruct their advocates, as well as problem of foreigners remaining in jail after acquittal or after undergoing conviction. The Jail authorities to take steps to resolve these issues.
- 7) Many foreigners complained of delay in forwarding their requests for Visas to their embassies, which the Jail officials need to look into.

- 8) So also, it was noted that there was no ISD facility to enable the foreigners to communicate with their family members. The Jail authorities to expedite the setting of the ISD facility, to ensure that the human right to communication of the Inmates is taken care of.
- 9) There were complaints of no proper Drinking Water facilities in the cells. The Jail Administration to expedite setting up the water coolers and also providing hot water facilities.
- 10) The inmates complained of mosquito menace which can be taken care of to some extent by providing the windows with nets. The Jail authorities to pursue this matter expeditiously.
- 11) There is a hospital block but it is non-functional. The Jail authorities to take steps for making the same operational at the earliest.
- 12) Inward acknowledgement to their letters is to be given when an inmate gives any application to the jail authorities.
- 13) It is also recommended to the jail authorities to set-up mobile jammers in the jail premises, to prevent the use of mobile phones within the jail premises by the inmates. So also, the effective functioning of the CCTVs be ensured within the jail premises.

The visit was a great learning experience for the Goa Human Rights Commission delegation and was successful with the co-operation of the Jail Officials. The Inmates also appeared to be happy that the Goa Human Rights Commission had given them the opportunity to speak on their difficulties.

The report was forwarded to the Inspector General of Prisons for necessary follow-up and to submit the Action Taken Report within 60 days, which has been received.

During this year, the Goa Human Rights Commission had also collaborated with the Goa University Manohar Parrikar School of Law Governance and Public Policy, in hosting the PARRIKAR NATIONAL MOOT & POLICY HACKATHON 2025, which focuses on Human Rights within tourism and development, on 24th and 25th January 2025 at Goa University, Taleigao Plateau, Goa.

REPORT ON VISIT TO APNA GHAR AND PROTECTIVE HOME-CUM-RECEPTION CENTRE, MERCES-GOA ON 14/11/2024

The Goa Human Rights Commission Team consisting of the Acting Chairperson, Shri Desmond D'Costa; Member, Shri Pramod V. Kamat; Secretary, Ms. Biju R. Naik; Under Secretary, Smt. Anita S. Bhosle; Legal Assistant, Shri Nitesh N. Ambekar and other Staff, on the occasion of

Children's Day, today, 14th November 2024, visited the Apna Ghar and Protective Home-Cum-Reception Centre at Mercas, to create awareness of Human Rights amongst the Inmates. The team was accompanied by Shri Girish Sawant, Deputy Director, Apna Ghar, during the visit to the campus.

The Goa Human Rights Commission interacted with the Inmates to make them aware that they too are entitled to protection of their Human Rights.

The team met the 14 Male Children under Care and Protection and so also the 12 Female Inmates.

A small session on awareness was held with the Inmates.

The female Children had no complaints except that they expressed that they are sometimes taunted by the Staff and feel humiliated.

On the visit to the premises, the Goa Human Rights Commission observed that overall the same are well maintained and very clean and with child friendly paintings. The kitchen premises were also visited and found to be hygienic, except the wash basins area at the entrance leading towards the kitchen.

The Goa Human Rights Commission also visited the Protective Home-Cum-Reception Centre, where there were 03 foreigners as Inmates. They were seen to be being trained in stitching clothes. Overall their spirit was very positive.

The Goa Human Rights Commission recommends training on child protection, child abuse, physical, sexual, emotional abuse etc., adult behaviour and care towards a child, etc. to the staff especially those dealing directly with the children under care and protection.

A copy of the report was forwarded to the Director, Directorate of Women and Child Development, Panaji-Goa, for information and necessary action.

REPORT ON VISIT TO INSTITUTE OF PSYCHIATRY AND HUMAN BEHAVIOUR (IPHB), BAMBOLIM-GOA ON 07/01/2025

To create awareness of Human Rights, the Goa Human Rights Commission team consisting of the Acting Chairperson, Shri Desmond D'Costa; Secretary, Ms. Biju R. Naik; Under Secretary, Smt. Anita S. Bhosle; Section Officer, Shri Umesh N. Desai; Legal Assistant, Shri Nitesh N. Ambekar; Accountant Shri Jolizio Vales and other Staff visited the Institute of Psychiatry and Human Behaviour (IPHB), Bambolim-Goa.

The team was welcomed by Dr. Anil Rane and other Doctors and Nurses of the IPHB, who took the team on a tour of the vast well maintained premises.

The team visited the wards, the female as well as the male wards and interacted with the patients.

The Commission observed that, the overall hospital and its premises were very hygienic. It was a great learning experience for all in the team.

The Commission also visited the canteen and kitchen areas, which are kept in hygienic conditions and well supervised by a Dietitian and trained staff.

IPHB has around 190 in-patients, and the Commission observed that, a lot of its patients who require rehabilitation post the treatment, continue to remain in the hospital due to lack of intake capacities of the existing two rehabilitation units at Majorda, in South Goa and at Mapusa, in North Goa.

The Commission therefore recommends that, the following departments coordinate and expedite the process of creating rehabilitation homes in the different Talukas of Goa, as needed:-

- (1) The Director, Department for Empowerment of Persons with Disabilities, Porvorim-Goa;
- (2) The Director, Directorate of Social Welfare, Panaji-Goa;
- (3) The Director, Institute of Public Assistance (Provedoria), Panaji-Goa.

The report was forwarded to (1) The Director, Department for Empowerment of Persons with Disabilities, Porvorim-Goa, (2) The Director, Directorate of Social Welfare, Panaji-Goa and (3) The Director, Institute of Public Assistance (Provedoria), Panaji-Goa, for necessary follow-up and to submit the Action Taken Report within 90 days.

Sd/-
(Desmond D' Costa)

Acting Chairperson/ Member-1

Sd/-
(Pramod V. Kamat)

Member-2

Dated:- 25/06/2025

Place :-Panaji-Goa

